

REMARKS/ARGUMENTS

This Amendment is responsive to the Office Action dated July 31, 2006.

Claims 4 through 18 are pending in the application. Of those claims, independent claims 4, 9 and 14 stand rejected under 35 U.S.C. 102 (a) as being anticipated by Smith et al. US Patent Publication Number 2002/0168257; and all the claims stand rejected under 35 U.S.C. 102 (b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ellis U.S. Patent Number 2,930,500.

Responsive to the rejections of the claims, Applicant herein amends independent claims 4, 9 and 14 to more patentably distinguish those claims over the cited prior art references.

Claims 5 through 8, 10 through 13 and 15 through 18 are also amended so as to better conform to the language of the base claims from which they depend. With this amendment, all of the claims pending in the application are believed be allowable.

Turning to amended independent claim 4, that claim is directed to a deer-carrier rack for attachment to a frame of an all terrain vehicle, requiring an attaching frame configured for attaching in an upright orientation to an end of an all-terrain vehicle, the attaching frame having a lower end and an upper end. Claim 4 requires a rigid deer support frame comprising spaced apart left and right generally co-extensive elongate dog leg rods, each of the rods having an axel end rotatably attached to the lower end of the attaching frame for generally upward and downward rotation of the deer support frame relative thereto, and an outer end opposite the axel end and spaced from the lower end of the attaching frame. Claim 4 requires the outer end of each of the rods to have a length which is at least two times greater than a length of the axel end thereof, and the axel ends of the rods to form a concave region adjacent to the lower end of the attaching frame.

Claim 4 additionally requires the concave region being configured and oriented so as to face upwardly while extending downwardly to the outer end of the rods when the attaching

frame is attached in the upright orientation to an end of an all terrain vehicle and the deer support frame is rotatably positioned relative thereto in a deployed position extending outwardly therefrom, the upwardly facing concave region

**having a flat outer end which smoothly transitions into the outer end of the rods forming an at least substantially flat, unobstructed platform configured for receiving a body of a deer thereon such that the deer support frame with a body of a deer received on the flat platform can be rotated upwardly from the deployed position to an upright position wherein the outer ends of the rods extend at least generally vertically and the concave region is spaced outwardly from the lower end of the attaching frame for supporting the body of a deer thereagainst without pinching the body of the deer during the upward rotation, and such that the deer support frame in the upright position can be secured to the attaching frame or the all terrain vehicle for holding the body of the deer against the lower end of the attaching frame.**

Addressing the rejections of original claim 4 as being anticipated by Smith et al., and Ellis, Applicant respectfully asserts that with the amendments to claim 4, that claim is now more patentably distinguishable over these references, as all of the elements of amended claim 4, as arranged in the claim, are not disclosed in either the Smith et al. or Ellis reference.

More particularly with regard to Smith et al., the claimed element of a rigid deer support frame is not present in Smith et al., as instead, the base support member 16 of that device is hinged at 22. The outer end of the base support member is also not twice the length of the connected end as required in the claim. The claimed upwardly facing concave region having a flat outer end which smoothly transitions into the outer ends of the rods forming a substantially flat, unobstructed platform configured for receiving a body of a deer thereon, is also nowhere disclosed in Smith et al. Instead, in Smith et al., the base support member 16 is disjunctive and angularly shaped, not flat, and it is not unobstructed, as it includes cable means 24 extending upwardly therefrom, which cable 22 and an associated winch 14 are necessary elements for the operation of that device for lifting a load.

Still further, Applicant respectfully asserts that the Smith et al. reference teaches away from the recited features of amended claim 4 as it specifically provides a loading platform 18 on the end of the base support member 16 for receiving a load, and, if it were attempted to place a deer body on the opposite end of base support member 16 closer to vertical support member 12, as the base support member 16 is winched up, cable 24 would urge the deer body upwardly from the support member 16. Also, Applicant asserts that even if cable 24 were removed, the concave region of the base support member 16 identified by the Examiner is not configured and sufficiently spaced from the vertical support member to function to support a deer body as the support member 16 is pivoted up, as it is apparent that the weight of the deer body would urge it downwardly so as to be wedged or pinched between the vertical support member 12 and the base support member 16. It is further believed that such pinching problem would also be readily apparent to any user and thus would likely serve to discourage a user from attempting to use the Smith et al. device in the manner recited in the claim.

Addressing Ellis in terms of the anticipation standard, although legs 22 of the Ellis device include a concave region, it does not have a flat end portion which smoothly transitions into the outer end portions of the legs, as required in claim 4. And, straps 62 obstruct the concave region from the sides, such that it is not unobstructed as required in claim 4. Although it could be argued that straps 62 in combination with the outer ends of legs 22 form a flat platform, this would not be in transition with the concave portion of the legs, such that when the legs are pivoted up with a body of a deer on the "platform" no support would be provided by the concave region and body would be urged down by its own weight so as to be pinched between straps 62 and straps 56 adjacent hinge 58.

Traversing the rejection of claim 4 on the grounds that it would have been obvious to one of ordinary skill in the art to modify the Ellis support frame to accommodate deer as it is

designed for human-assisted loading of heavy objects from ground level to a vehicle, Applicant respectfully asserts that there is no disclosure, teaching and/or motivation in the Ellis reference to incorporate the recited features of the device of amended claim 4 which facilitate ease of deer body loading, namely the configuration of the concave region to include the flat outer end providing the smooth transition to the outer ends of the rods forming the flat platform, the unobstructedness of the platform, and the spacing of the concave region sufficiently from the attaching frame so as to avoid pinching the body of the deer during lifting.

For the foregoing reasons, amended claim 4 is believed to be patentably distinguishable over the cited references and allowable.

Claims 5 through 8 depend from amended claim 4 and add still further distinguishing limitations thereto. For instance, amended claim 5 now more particularly requires the axel end of the deer support frame to include at least one wing piece extending sidewardly therefrom adjacent to the concave region forming a sideward extension of the platform. This is not disclosed in either Smith et al. or Ellis. Accordingly, these claims, in combination with base claim 4, are also believed to be patentably distinguishable over the cited prior art and allowable.

Amended independent claim 8 is directed to a deer-carrier rack for attachment to a frame of a frame of an all terrain vehicle, requiring an attaching frame configured for attaching in an upright orientation to an end of an all-terrain vehicle, the attaching frame having a lower end and an upper end. Amended claim 8 requires the deer-carrier rack to include a deer support frame comprising spaced apart left and right elongate dog leg rods, the dog leg rods having axel ends rotatably attached to the lower end of the attaching frame for generally upward and downward rotation of the deer support frame relative thereto, and outer ends opposite the axel ends and spaced from the lower end of the attaching frame.

Amended claim 8 further requires the axel ends of the rods include

concave portions disposed adjacent to the lower end of the attaching frame and smoothly blending into the outer ends forming a flat platform configured such that when the attaching frame is attached to an end of an all terrain vehicle and the deer support frame is rotatably positioned relative thereto in a deployed position, the flat platform will be disposed lower than and extend outwardly generally horizontally from the attaching frame and the concave portions will face upwardly and be unobstructed so as to be configured for receiving and supporting a body of a deer thereon, and the deer support frame being rotatable upwardly from the deployed position to an upright position wherein the concave portions of the dog leg rods are spaced outwardly from the lower end of the attaching frame forming a cavity therebetween and the outer ends will extend upwardly, such that a body of a deer received and supported on the flat platform when the deer support frame is in the deployed position can be moved into and held in the cavity against the lower end of the attaching frame by the concave portions, as the attaching frame is rotated upwardly to the upright position.

Addressing the rejections of original claim 9 as being anticipated by Smith et al., and Ellis, Applicant respectfully asserts that with the amendments to claim 9, that claim is now more patentably distinguishable over these references, as all of the elements of amended claim 9, as arranged in the claim, are not disclosed in either the Smith et al. or Ellis reference.

More particularly with regard to Smith et al., it does not disclose the recited rigid dog leg rods including axel ends including concave portions adjacent to the lower end of the attaching frame and the smoothly blending into the outer ends of the rods to form the flat platform, or that the concave portions are unobstructed so as to be configured for receiving and supporting a body of a deer thereon. Smith et al. also does not disclose the recited feature of claim 9 of the deer support frame being rotatable upwardly from the deployed position to an upright position wherein the concave portions of the dog leg rods are spaced outwardly from the lower end of the attaching frame forming a cavity therebetween . . . such that a body of a deer received and supported on the flat platform when the deer support frame is in the deployed position can be moved into and held in the cavity against the lower end of the attaching frame by the concave portions, as the attaching frame is rotated upwardly to the upright position.

Also, as argued above in reference to amended claim 4, and incorporated herein by reference, Smith et al. includes cable 24 that obstructs the concave portion thereof, and would pinch a body of a deer disposed on the concave region thereof as it is raised, so as to lack several of the recited features of amended claim 9.

More particularly with regard to Ellis, it also does not disclose the recited rigid dog leg rods including axel ends including concave portions adjacent to the lower end of the attaching frame and the smoothly blending into the outer ends of the rods to form the flat platform, or that the concave portions are unobstructed so as to be configured for receiving and supporting a body of a deer thereon. The concave region of the legs of Ellis, by virtue of straps 62 as pointed out in reference to amended claim 4 above and incorporated herein by reference, also are not unobstructed as required in claim 9, and Ellis does not disclose the recited feature of claim 9 of the deer support frame being rotatable upwardly from the deployed position to an upright position wherein the concave portions of the dog leg rods are spaced outwardly from the lower end of the attaching frame forming a cavity therebetween . . . such that a body of a deer received and supported on the flat platform when the deer support frame is in the deployed position can be moved into and held in the cavity against the lower end of the attaching frame by the concave portions, as the attaching frame is rotated upwardly to the upright position. Again, the straps 62 and 56 of Ellis would prevent this.

Traversing the rejection of claim 9 on the grounds that it would have been obvious to one of ordinary skill in the art to modify the Ellis support frame to accommodate deer as it is designed for human-assisted loading of heavy objects from ground level to a vehicle, Applicant respectfully asserts that there is no disclosure, teaching and/or motivation in the Ellis reference to incorporate the recited features of the device of amended claim 9 which facilitate ease of deer body loading, namely that the concave portions smoothly blend into the outer ends of the

rods to form the flat platform, or that the concave portions are unobstructed so as to be configured for receiving and supporting a body of a deer thereon. There is not even a motivation in Ellis of any kind whatsoever to provide structure such that a body of a deer received and supported on the legs thereof would be moved into and held in the cavity of the legs as the legs are rotated upwardly to the upright position. Here again, the straps 62 and 56 of Ellis would prevent this.

For the foregoing reasons, amended claim 9 is believed to be patentably distinguishable over the cited references and allowable.

Claims 10 through 13 depend from amended claim 9 and add still further distinguishing limitations thereto. Accordingly, these claims, in combination with base claim 9, are also believed to be patentably distinguishable over the cited prior art and allowable.

Amended claim 14 is directed to a deer-carrier rack for an all terrain vehicle, requiring an attaching frame attached in an upright orientation to an end of an all-terrain vehicle, the attaching frame having a lower end and an upper end, the lower end having a substantially flat upstanding face facing outwardly from the vehicle. Claim 14 requires a rigid deer support frame comprising spaced apart left and right generally co-extensive elongate dog leg rods, each of the rods having an axel end rotatably attached to the upstanding face of the lower end of the attaching frame for generally upward and downward rotation of the deer support frame relative thereto. Claim 14 requires the axel end of each of the dog leg rods extend to an outer end of the rod spaced from the lower end of the attaching frame, the outer end of each of the rods having a length which is at least two times greater than a length of the axel end thereof.

Claim 14 further requires the axel ends of the rods form a concave region adjacent to the lower end of the attaching frame, the concave region having

a first portion configured so as to extend downwardly from the lower end of the attaching frame to a second portion connected to the outer ends of the dog leg rods

**when the deer support frame is rotatably positioned in a deployed position extending outwardly from the attaching frame, in the deployed position the second portion of the concave region and the outer ends of the dog leg rods forming a substantially horizontal flat platform which is unobstructed and configured for receiving a body of a deer thereon so as to allow the deer support frame with a body of a deer received on the platform to be rotated from the deployed position to an upright position wherein the outer ends of the rods are rotated past vertical and the concave region will be spaced outwardly from the lower end of the attaching frame for supporting the body of a deer thereagainst and adjacent to the end of the all-terrain vehicle.**

Applicant respectfully asserts that with the amendments to claim 14, that claim is now more patentably distinguishable over the Smith et al. and Ellis reference, namely in regard to anticipation, on the grounds that all of the elements of amended claim 14, as arranged in the claim, are not disclosed in either the Smith et al. or Ellis reference, and in regard to obviousness, on the grounds that Ellis provides no disclosure, teaching or motivation to modify the apparatus of that reference to provide the recited features of amended claim 14.

More particularly with regard to Smith et al., Applicant points out that Smith et al. does not disclose the outer ends of the rods having a length which is at least two times greater than a length of the axel ends thereof, and a second portion of the concave region and the outer ends of the dog leg rods forming a substantially horizontal flat platform which is unobstructed and configured for receiving a body of a deer thereon so as to allow the deer support frame with a body of a deer received on the platform to be rotated from the deployed position to an upright position wherein the outer ends of the rods are rotated past vertical and the concave region will be spaced outwardly from the lower end of the attaching frame for supporting the body of a deer thereagainst and adjacent to the end of the all-terrain vehicle.

Again, as argued above in reference to amended claims 4 and 9, and incorporated herein by reference, Smith et al. includes cable 24 that obstructs the concave portion thereof, and

would pinch a body of a deer disposed on the base support member thereof as it is raised, so as to lack several of the recited features of amended claim 14.

More particularly with regard to Ellis, it also does not disclose the recited rigid dog leg rods including that the outer ends of the rods have a length which is at least two times greater than a length of the axel ends thereof, and a second portion of the concave region and the outer ends of the dog leg rods forming a substantially horizontal flat platform which is unobstructed and configured for receiving a body of a deer thereon so as to allow the deer support frame with a body of a deer received on the platform to be rotated from the deployed position to an upright position wherein the outer ends of the rods are rotated past vertical and the concave region will be spaced outwardly from the lower end of the attaching frame for supporting the body of a deer thereagainst and adjacent to the end of the all-terrain vehicle.

Traversing the rejection of claim 14 on the grounds that it would have been obvious to one of ordinary skill in the art to modify the Ellis support frame to accommodate deer as it is designed for human-assisted loading of heavy objects from ground level to a vehicle, Applicant respectfully asserts that there is no disclosure, teaching and/or motivation in the Ellis reference to incorporate the recited features of the device of amended claim 14 which facilitate ease of deer body loading, namely that the concave portions and the outer ends of the rods form the flat platform configured for receiving a body of a deer thereon so as to allow the deer support frame with a body of a deer received on the platform to be rotated from the deployed position to an upright position wherein the outer ends of the rods are rotated past vertical and the concave region will be spaced outwardly from the lower end of the attaching frame for supporting the body of a deer thereagainst and adjacent to the end of the all-terrain vehicle. There is not even a motivation in Ellis of any kind whatsoever to provide structure with this capability.

For the foregoing reasons, amended claim 14 is believed to be patentably distinguishable over the cited references and allowable.

Claims 15 through 18 depend from amended claim 14 and add still further distinguishing limitations thereto. Accordingly, these claims, in combination with base claim 14, are also believed to be patentably distinguishable over the cited prior art and allowable.

With this amendment, all of the claims in the application, namely, claims 4 through 18, are believed to include limitations which patentably distinguished them over the cited prior art. None of the cited prior art references, either alone or in combination, is believed to include all of the features of the claims. Accordingly, favorable action and allowance of all of the claims is respectfully requested.

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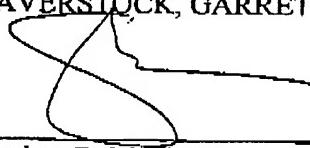
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A one month extension of time is requested to extend the time for submitting this Amendment. The Office Action was mailed on July 31, 2006, and the initial three month period in which to submit a response ended on October 31, 2006. The one month extension of time extends the response time up to and including November 30, 2006. The Commissioner is hereby authorized to charge \$60.00, which is the charge for an extension of one month as set forth in 37 CFR §1.17(a)(1) for a small entity, to our Deposit Account No. 08-1280. The Commissioner is further authorized to charge any credit or deficiency to said account.

If the Examiner has any requirements or suggestions for placing the present claims in better condition for allowance, Applicant's undersigned attorney would appreciate a telephone call at the number listed below.

Respectfully submitted,

HAVERSTOCK, GARRETT & ROBERTS LLP



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